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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,593	12/05/2003	Robert Earl Wills	REW 3001.01	7495

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EXAMINER

SWIATEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/727,593	WILLS, ROBERT EARL	
	Examiner	Art Unit	
	Robert P. Swiatek	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 1-9, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 10-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3-2-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7-9, 15, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Vincent (US 337,097). The Vincent patent discloses a beehive including a feeder having a chamber X. The chamber X is positioned within an opening in the top of a first hive body A, G such that a plurality of openings in the bottom of the chamber X are situated adjacent frames L for access by bees (see page 2, lines 18-22, of Vincent). The upper portion of chamber X is open for reception of syrup or other liquid food from overlying chamber Y; a screw cap Z in chamber Y permits it to be refilled as needed, while an adjoining trough W serves *inter alia* as a handle by which chamber X could be lifted for removal from the hive. Vincent also discloses a second hive body O, N within which the chamber X is located. The “means for mounting” chamber X atop hive body A, G is deemed to constitute the bottom of trough G, which bottom extends outwardly in a flange-like manner from chamber X to rest on the upper surface of component G, suspending chamber X in the top of the first hive body. As to claim 4, the “insulating shell” is considered to be element O of the second hive body, which surrounds the feeder components. With respect to claims 7, 8, 15, 16, the “fine wire-gauze” covering the openings in chamber X of Vincent is considered to possess mesh pores having applicant’s gauge size range.

Art Unit: 3643

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vincent in view of Florance (US 3,438,070). While the hive body O, N of Vincent is not disclosed as being constructed from a foam plastic, it would have been obvious to employ such a material in the construction of the Vincent hive body, in view of the teaching of Florance that expanded polyurethane or similar material has excellent insulative and vapor blocking qualities.

Claims 10-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The disclosure is objected to because of the following informalities: On page 6, line 7, "101a" should be changed to -101b-, in line 8, "101b" should be changed to -101a-, in line 21, "form" is a misspelling, in line 25, "long" should be changed to -short-, in line 26, "short" should be changed to -long-; on page 8, line 19, the first occurrence of "501" should be deleted, in line 22, -on- should be inserted after "positioned."

Appropriate correction is required.

The abstract of the disclosure is objected to because use of the terms "said" and "means" should be avoided. Correction is required. See MPEP § 608.01(b).

Art Unit: 3643

The patents to Byrd et al. (US 215,569) and Hasting (US 371,581) have been cited to provide additional examples of bee feeders.

RPS: 1703/308-2700
26 April 2004

Robert P. Swiatek
ROBERT P. SWIATEK
PRIMARY EXAMINER
ART UNIT ~~320~~ 3643